WP(C) 3503/2004

BEFORE

HON'BLE MR. JUSTICE N.KOTISWAR SINGH

Heard Ms. A.B.Kayastha, learned counsel appearing for the petitioner-company as well as Mr. B.J.Talukdar, learned counsel appearing for the respondents.

In the present writ petition, the petitioner-company has sought for a direction to the respondents to carry out survey/measurement of the plot of land which has been handed over to the petitioner-company after the same was acquired under the Land Acquisition Act, 1894 claiming that the petitioner had been handed over land less than they had asked for, for which they had made necessary payment, after conclusion of the land acquisition proceeding.

It is stated by the learned counsel appearing for the petitioner-company that on the request of the petitioner-company to allocate certain plot of land in a proper location at Guwahati for running their business activities, the State authorities initiated a proceeding under Land Acquisition Act for acquiring land measuring 2 bighas 3 kathas 10 lachas in village Darandha, Mouza-Beltola in the district of Kamrup under Dag Nos.569, 566, 245/Kha. The said land was acquired under Land Acquisition Case No.23 of 1994 and the costs of the land was estimated to be Rs.20,82,147/-. As required, the petitioner-company paid the aforesaid amount by way of a cheque dated 27.9.1995. Accordingly, as required under section 6 of the Land Acquisition Act, 1894, the aforesaid land measuring2 bighas 3 kathas 10 lachas was acquired and declaration was duly made and published under the Assam Gazette on 28.02.1996. Thereafter, the possession of the aforesaid land was handed over to the petitioner-company on 29.3.1996 by issuing a Certificate of handing over possession of land.

After taking possession of the aforesaid acquired land, the petitioner-company started the process of construction work for residential complex and others. While doing so, it was detected that the actual area of land handed over to the petitioner-company on 29.3.1996 was 2 bighas 3 kathas 18 lachas in lieu of 2 bighas 3 kathas 10 lachas as stated above. The petitioner-company approached the State authorities to carry out proper measurement of the land and to hand over the remaining area which was found to be not handed over to the petitioner-company. However, the repeated request made by the petitioner-company to the respondents' authorities not having attended to, the petitioner-company have approached this Court for a direction to the authority concerned for causing survey/measurement of the plot of land in question and hand over the remaining short fall land to the petitioner-company in terms of the aforesaid land acquisition proceeding, for which the petitioner-company had already made payment, as stated above.

Heard the learned counsel appearing for the parties and perused the records.

On the basis of the available records, this Court is of the view that the present writ petition can be disposed of with a direction to the respondents to cause survey/measurement of the plot of land, which was handed over to the petitioner-company after the aforesaid land was acquired under the Land Acquisition Act, 1894 in LA Case No.23 of 1994 for acquiring the land measuring 2 bighas 3 khatas and 10 lachas at village Darandha, Mouza-Beltola, Kamrup District under Dag Nos.569, 566, 245/Kha and after making measurement, hand over the remaining portion which the petitioner-company claimed to have not been handed over, if lands are still available. In the event, the aforesaid lands are not available, the respondents would sort out the matter in consultation with the petitioner-company and the authorities would take appropriate action accordingly. The above exercise may be undertaken by the authorities concerned within a period of three months.

With the above observation and direction, this writ petition stands disposed of.